

STATE OF TEXAS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AMENDING THE SEGUIN UNIFIED DEVELOPMENT CODE SECTION 4.7.11 (MAIN EXTENSIONS); THE SEGUIN CODE OF ORDINANCES, CHAPTER 102, UTILITIES, ARTICLE III, WATER, SECTION 102-76 AND ARTICLE IV, WASTEWATER SECTION 102-179; PROVIDING A SEVERABILITY CLAUSE; AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Seguin City Council recently adopted the Unified Development Code (UDC) that will encourage better planning and development throughout the city and will be easier for the public to use; and

WHEREAS, the Seguin City Council desires to provide for the orderly, safe and healthful development of land located within the community; and

WHEREAS, the City Council of the City of Seguin desires to promote the health, safety, morals and general welfare of the citizens of the city, by regulating the land uses within the Seguin City Limits and subdivision development within the Seguin City Limits and Extraterritorial Jurisdiction; and

WHEREAS, on November 10, 2015, after conducting a public hearing, the Planning and Zoning Commission voted to recommend to City Council that the amendments to the UDC as described herein be adopted.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Seguin, Texas:

PART ONE. Section 4.7.11, Main Extensions, of the Unified Development Code is hereby amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

4.7.11 Main Extension

Refer to Section 102-179 of the City's Code of Ordinances for all applicable requirements for subdivision development under this Chapter.

- ~~A. **Requests.** Where wastewater service is desired and no main exists in an adjoining street, alley or road from which to make the connection, the applicant for wastewater service shall make a written request to the City for service. The request shall be accompanied by the following:~~
- ~~• A nonrefundable application fee as established by the City Council in the adopted fee schedule;~~

- ~~A detailed preliminary map or plat prepared by a registered professional engineer showing the location of the proposed wastewater line, the proposed usage requirements and surrounding conditions, to include roadways, street pavements, railroad crossings, utility easements, rock excavations, drainage and other physical obstructions to the main extension.~~

~~**B. Review of Request.** City Staff shall review the application to ascertain compliance with all applicable federal, state and local regulations and requirements, with specific attention to the impact of the proposed extension on the City's existing wastewater transmission system and treatment plant. Any application not in compliance with such regulations and requirements or creating a requirement for service in excess of the existing capacity of the wastewater transmission system or treatment plant shall be rejected. If City staff ascertains that the application satisfies the requirements or can be made to satisfy such requirements with modification, he shall recommend to the City Council that the application shall be approved or approved subject to requisite modifications. If the application does not satisfy such requirements and cannot be made to satisfy such requirements, he shall recommend that it be disapproved. Required modifications may include any requirements for oversizing of the proposed extension main that the City Staff deems appropriate in light of expected future usage requirements of the main. City Staff shall then prepare a cost estimate for the proposed extension main and shall submit the estimate to the City Council with his recommendations. The estimate shall include but not be limited to all procurement, engineering, administrative and construction costs associated with the main extension project.~~

~~**C. Action on the Request.** The City Council shall approve or disapprove the application, with or without modifications, and City staff will notify the applicant in writing of the council's action, within 60 days of the date of application. The applicant shall also be advised of the estimated cost of the project, less the cost of any oversizing requirements imposed by City staff in excess of the actual requirements of the applicant as determined by the City.~~

~~**D. Action after Approval.** Within 30 days of receipt from City Staff of the notice of approval, approval with modification or disapproval, the applicant shall deposit with the City a cash sum in the full amount of the cost estimate of the project, less the cost of any oversizing requirements imposed by City Staff in excess of the actual requirement of the applicant as determined by the City. Within 90 days from the date of receipt of the deposit, the City shall commence work on the main extension and use every reasonable effort to complete the extension in a timely manner. City Staff shall calculate the per extension line front foot cost of the main extension. The cost of the main extension will be prorated to property owners benefiting from the extension on a per extension line front foot basis. The per extension line front foot cost will be applied to the extension line front footage of the lot to which service is desired and shall be due to the time connection is made, in addition to any other service or connection charges required by the City. These prorated charges shall be refunded to the original applicant by the City as they are received. The total aggregate amount to be repaid to the applicant shall never exceed the total amount paid by the applicant to the City, less the applicant's per extension line front foot pro rata share of the total project cost. After refund of the sum to the applicant or after five years from the date of the original deposit, whichever shall occur first, all or any portion of the deposit remaining unrefunded to the applicant shall be conclusively deemed to have become the property of the City as partial compensation for the~~

~~cost of operating and maintaining the extension line and the depreciation thereof. If the City shall, at any time, lawfully discontinue any utility service charge or fee, all right to any further repayment shall immediately terminate. If the main is further extended, beyond the point covered by the applicant's deposit and no additional deposit is made by the applicant, no refund shall be made because of service connections on such extension of the main beyond the present extension. No refund will be made for any consumer connected after five years from the date of original deposit. The right to any such refund will terminate upon assignment or sale of the property first serviced in the original application. Absolute legal and equitable title to the main extension, wherever laid, and to all property installed by the City to provide utility service shall remain vested in the City, its successors and assigns, and the City shall at all times exercise all rights of ownership and control over the main extension and property, use the main extension and property for all purposes in its Charter or as allowed by law and make such extensions thereof and connections therewith as the City deems appropriate.~~

PART TWO. The Seguin Code or Ordinances, Chapter 102, Utilities, Article III, Water, Division I, Generally is amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 102-76. - Compliance with article prerequisite to service.

The city shall not supply water to any business or residence unless this article and Section 102-179 ~~can be and is~~ are complied with.

PART THREE. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IV, Wastewater, Division II, Connections, Section 102-179, of the City Code of Ordinances is hereby repealed in its entirety.

PART FOUR. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IV, Wastewater, Division II, Connections is hereby amended by the creation of a new Section 102-179 to read as follows:

Sec. 102-179. - Main extensions (Water and Wastewater).

Generally

- a) Where water or wastewater service is desired and no main exists in an adjoining street, alley or road from which to make the connection, the applicant for service shall make a written request to the city for service.
- b) The extension must be of a size that conforms to the city's construction design and materials standards and the provisions of the city master plan and capital improvements plans that pertain to utility development, and the design and construction of the extension must meet all state and city regulations.

- c) All water and wastewater mains shall be sized to provide necessary service to the tract to be developed. The cost of water mains up to eight inches, or of a size required to serve a tract being developed, whichever is larger, shall be paid in full by the applicant.
- d) Any required valves, fire hydrants, appurtenances or other equipment, appliances or improvements related to and required for the water or wastewater line must be paid for by the applicant. Any necessary boring for line extensions will be at the applicant's expense.
- e) The extension must be made in a public utility easement or public right-of-way. If an easement or right-of-way is not in place, it will be the applicant's responsibility to acquire an easement on behalf of the city. The form of the easement shall be subject to approval by the city.
- f) The extension must begin at a city-approved point at which adequate capacity is available at time of issuance of site or building permit. Until capacity is adequately demonstrated by the applicant or upon expiration of the site or building permit, the city does not warrant or guarantee line capacity and there shall be no recourse against the city for failure of line capacity to serve the needs of any property.
- g) Ownership of line extensions, appurtenances and facilities will be transferred to the city upon final acceptance of the improvements by the city. Operation and maintenance of the improvements will become the responsibility of the city upon final acceptance, with the exception of any warranty items.
- h) Permitting and acceptance of improvements shall follow the process for Public Improvement Construction Plans in the City's Unified Development Code.
- i) Water main extensions shall be consistent with the requirements of the City's Fire Codes.
- j) "City Manager" in this section shall refer to the City Manager or his authorized designee.

Extension to Adjacent Properties

- a) Wherever the subject property adjoins undeveloped land, or wherever required to serve the public good, utilities shall be extended to adjacent property lines to allow connection to these utilities by adjacent property owners when such adjacent property is platted and/or developed. The extension shall be made along the entire frontage of the property to a point at which extensions and connections to future subdivisions or developments can be made. If the property or development is not adjacent to a public right-of-way, the extension of water or wastewater lines shall be accomplished in such a manner as to allow future extensions and connections to new subdivisions or developments.
- b) Pipe stubouts shall be located in manholes to facilitate the future extension of wastewater lines.
- c) The Planning and Zoning Commission may waive this requirement through a subdivision variance due to physical or legal constraints on the subject property or on the adjacent property to which service is required to be extended.

Requests outside City Limits

- a) Applications for connection to or extension of the City water or wastewater system for property located outside the City limits will be granted only with the approval of the City Manager. Each such application must be accompanied by a written request for annexation of the applicant's property.
- b) When a main extension is required, if the property is not contiguous to the city limits, the application must be accompanied by a written request for annexation of an area at least 15 feet in width from each property owner or, for public right-of-way, the entity having jurisdiction over the right-of-way, along the intended route of the line extension.

City Construction of Extensions

In certain situations such as short extensions where no design work is necessary, the city may, but shall not be required to, construct a water or wastewater line with funds provided by the owner or developer to serve a development in lieu of construction by the owner or developer subject to any requirements of this section and any terms and conditions imposed by the city. Before the city may construct facilities under this section, the owner or developer shall execute an agreement approved by the City Manager setting forth the terms and conditions under which the city will perform such service.

Oversizing

- a) Where it is determined that water and/or wastewater mains need to be of a larger size or a lift station of a greater capacity than is required to serve the tract to be developed, the city may require the developer to install such oversize improvements. The city will pay the oversizing cost, subject to the limits and requirements of the Texas Local Government Code, § 212.072, consisting of the difference between the actual cost of the city-required line and the engineer's approved estimated cost for an eight-inch line, or the line size required to properly serve the use proposed by the applicant, as determined by the City Manager, whichever is greater.
- b) Manholes, cleanouts, odor control facilities and other required appurtenances, equipment, appliances or improvements may be subject to city oversizing participation.
- c) Payment from the city will be due only after the improvements are dedicated to and accepted by the city.

If any word, phrase, clause, sentence, or paragraph of this ordinance or the Unified Development Code is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance or the Unified Development Code will continue in force if they can be given effect without the invalid portion.

PART FIVE. All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

PART SIX. City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

PART SEVEN. This ordinance shall be effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

PASSED AND APPROVED on the first reading this 15th day of December, 2015.

PASSED AND APPROVED AND ADOPTED on the second reading this 5th day of January, 2016.

DON KEIL

Mayor

ATTEST:

Thalia Stautzenberger
City Secretary